

**Town of Amherst**  
**Zoning Board of Appeals - Special Permit**

*DECISION*

**Applicant:** Daniel Kramer and Deborah Timberlake

**Date application filed with the Town Clerk:** April 2, 2008

**Nature of request:** A Special Permit to renovate and expand a non-conforming house, under Section 9.22 of the Zoning Bylaw

**Address:** 180 Summer Street (Map 5B, Parcel 13, R-N Zoning District)

**Legal notice:** Published April 8 and 15, 2008 in the Daily Hampshire Gazette and sent to abutters on April 7, 2008

**Board members:** Barbara Ford, Jane Ashby and Eric Beal

**Submissions:** The petitioner submitted a Description of the Proposed Project, a Management Plan, photos of the existing house and barn, and two sets of building plans for the proposed new addition.

**Site Visit:** April 17, 2008

The Board met with Mr. Kramer at his home and observed the following:

- The location of the house on a quiet street near Puffer's Pond;
- The easterly side of the house that is essentially on the property line;
- The lack of foundation in the back section of the house that will be renovated;
- The section of the house that is proposed to change from a one to a two-story;
- The west side and backyard surrounded by a screen of evergreens;
- The large sideyard on the west for parking and recreation.

**Public Hearing:** April 22, 2008

Petitioners Daniel Kramer and Deborah Timberlake spoke to the petition at the hearing. They gave the following information:

- The front section of the house was built around 1830;
- The kitchen and back section was built around 1930, but it has no foundation;
- A foundation for the renovation of the back section will be built;
- The expansion will entail adding a second story to the back wing of the house; it will not change the footprint of the building;
- The current Zoning Bylaws don't conform to the historical configuration of the lot and house (from the applicant's perspective);
- The property is non-conforming in several ways; the house is too close to the property line on the east, the lot is too small, and the frontage is too short;
- The proposed peak height of the barn will be less than the front peak of the house by about two inches;

- The front of the house will not change, and the addition should not be seen from the street;
- They have spoken to the neighbors and no one had objections to the renovation/expansion.

Ms. Ashby asked why the barn windows on the plan appear to be at a lower level than those for the rest of the house. The applicant responded that the window placement was an aesthetic decision. The land slopes downward from the street and the barn is at a different elevation than the house. Also the barn is on piers, not over a full foundation as is the rest of the house.

Ms. Ford asked about the proposed deck on the westerly side of the house. Currently it is a porch with one means of egress. The applicant responded that the deck will be approximately 10' x 24', and will have one means of egress, from a slightly different location into the expanded kitchen area.

Ms. Ford asked if the back section of the house would be rented out. The petitioners said no, it would remain as a single family house.

Ms. Ford noted that single-family status is important because Section 9.22 of the Zoning Bylaw requires for a Special Permit for an extension or change of a non-conforming house. The Board must determine if the extension will not be more detrimental to the neighborhood than the existing non-conformity. If rooms were going to be rented, that could change the effect of the house on the neighborhood.

Ms. Weeks added that in the past, an expansion of a non-conforming building focused just on exterior changes. But court cases have determined that interior changes of a non-conforming building can be examined as well.

Ms. Ford asked about the number of bedrooms. The applicant responded that there are three bedrooms proposed for the original section of the house, and one large extra bedroom above the kitchen in the new section of the house.

Mr. Beal focused on the applicant's request for a waiver from professionally drawn building plans. The applicant used a software construction package, which is workable, but there are no dimensions on the plans. If the Board is to make a decision on the submitted drawings, dimensions are definitely needed. Otherwise, deviations from the plans are difficult to determine and are not enforceable, he said.

The applicant apologized for not having plans with dimensions on them. He said he thought he was just supposed to list the dimensions to the Board, which he proceeded to do.

The Board agreed that the applicant needs to resubmit his plans with a full set of dimensions on them.

Mr. Beal questioned whether the roofline in the back will in fact be visible from the front of the house. The pitch of the original house roof is steep, whereas the pitch of the barn roof will be quite shallow. The applicant responded that the barn pitch is a compromise. They do not want to see the back of the house from the front, but they also want to stand up and have usable space in the second floor of the barn. Also, the original house is significantly wider than the back section, so it should hide the back ridgeline.

Ms. Ford asked the Board if they wished to grant the applicant's request for a waiver of professionally drawn plans. Ms. Ashby said that the waiver was acceptable to her. Mr. Beal said that he would like to see the building plans at a meeting. He does not feel comfortable not knowing exactly what he would be approving.

Ms. Weeks stated that for a one or two-family dwelling, the applicant is not required to furnish architectural

plans to the Building Inspector's office, but it is helpful in many cases.

Mr. Beal asked about the style and placement of the windows. The applicant said that they want to keep the windows consistent with the design of the original 1830 windows.

Ms. Weeks asked what the kind of exterior siding would be used. The applicants said that the house would have clapboards, painted yellow as it currently is. The barn would have shiplap, installed vertically, and would be stained, perhaps a dark red.

Ms. Ashby made a motion to close the hearing. Mr. Beal seconded the motion, and the vote was unanimous to close the hearing.

**Public Meeting:**

The Board discussed the plans as submitted. They agreed that the petitioner could revise the plans, add dimensions, and re-submit the plans at a public meeting of the Board for final approval.

Ms. Ford made a motion to waive the requirement for professionally drawn building plans. Ms. Ashby seconded the motion, and the vote was unanimous to waive the requirement for professionally drawn plans as long as the petitioner re-submits the plans with dimensions and any minor corrections to the Board for approval at a public meeting.

The Board discussed the application in terms of Section 9.22 of the Zoning Bylaw, and found that the renovation and enlargement of the rear section of the house would not be detrimental to the neighborhood. Improving the back section of the house that's in poor condition will enhance the neighborhood, as many of the old "mill-era" homes have been renovated along Summer Street. The non-conformity of the placement of the house on the lot, the size of the lot and the footprint of the house will not change. Screening will be maintained to protect the neighbors.

The Board spent the remainder of the public meeting creating conditions for the Special Permit should it be approved.

**Findings:**

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because many of the houses in the neighborhood are located on non-conforming lots and have been renovated as well.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the house will remain as a single family house and will continue to be screened by evergreens on two sides.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because nothing is changing in terms of the house in relation to the street, or to the parking for the house.

10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the Town because there is ample room on the west side of the property for a driveway and parking for two cars that is required for a single family house.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes because the house is connected to Town water and sewer lines, and the Management Plan

indicates that the owner will be responsible for refuse and recycling.

10.391 – The proposal protects unique or important natural, historic or scenic features because the exterior of historic original house will remain unchanged, and the rear expansion is designed to match or be compatible with the original house.

10.392 – The proposal provides adequate landscaping, including the screening of adjacent residential uses, because the current screen of large pines will remain. Landscape plantings will be added as the house is renovated.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because any new exterior lighting will be downcast, as required by a condition of this permit.

10.395 – The proposal does not create disharmony with respect to the use, scale and architecture of existing buildings in the vicinity because the historic integrity of the building will be maintained.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst, and will enhance the neighborhood aesthetically.

### **Public Meeting – Zoning Board Decision**

Ms. Ashby made a motion to APPROVE the application with conditions. Ms. Ford seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to renovate and expand a non-conforming house, under Section 9.22 of the Zoning Bylaw, at 180 Summer Street, (Map 5B/Parcel 19, R-G Zoning District), as requested in the application filed by Daniel Kramer and Deborah Timberlake, with conditions.

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BARBARA FORD

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JANE ASHBY

\_\_\_\_\_  
ERIC BEAL

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2008 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2008.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2008  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2008,  
in the Hampshire County Registry of Deeds.

**Town of Amherst  
Zoning Board of Appeals**

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit to renovate and expand a non-conforming house, under Section 9.22 of the Zoning Bylaw, at 180 Summer Street, (Map 5B/Parcel 13, R-N Zoning District), as requested in the application filed by Daniel Kramer and Deborah Timberlake, subject to the following conditions:

1. The expansion shall be built according to the plans submitted to the Board, including the total number of bedrooms.
2. The height of the ridge of the expanded back section shall be at least one inch lower than the ridge of the existing front section of the house, so that that ridge of the addition shall not be seen from the front of the house.
3. Final revised building plans showing all dimensions shall be submitted to the Board before the decision is filed with the Town Clerk.
4. All new exterior lighting shall be downcast.
5. Existing screening of evergreens along the back and west sides shall be maintained.
6. The house shall be owner-occupied.

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BARBARA FORD, Chair  
Amherst Zoning Board of Appeals

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DATE